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ABSTRACT

Attempts by governmental powers to suspend the right to Habeas Corpus have occurred from time to time throughout English and American history. This study discusses one such successful attempt, engineered by William Pitt the Younger, then prime minister, in 1794. Pitt's success in gaining suspension of this writ and passage of the Habeas Corpus Suspension Act is attributed to his establishment of a "rhetoric of repression" within a political climate of repression. Pitt's role in this rhetoric of repression is scrutinized. The author's discussion is guided by the following questions: (1) What was the climate of repression in which Pitt's rhetoric of repression found favor? (2) What were the characteristics of Pitt's rhetoric of repression, especially as manifest in the debate on the Habeas Corpus Suspension Act of 1794? (3) Was Pitt's rhetoric of repression justified? (Author/LG)

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William Pitt and the Rhetoric of Repression

James S. Measell

The doctrine of Habeas Corpus is a basic tenet of English law. Article 39 of the Magna Carta provided that "no free man shall be imprisoned except by the legal judgment of his peers (or equals) or by the law of the land."[1] The Habeas Corpus Amendment Act of 1679, which was passed "in order to cut off various means of avoiding the principle,"[2] provided further specific guidelines:

> (1) every person imprisoned on a criminal charge other than treason or felony could demand the issue of the writ, and that he must be produced before the court within twenty days; (2) that no man who had been freed could be imprisoned again on the same charge; (3) that even if a man were charged with treason or felony he must be brought to trial at the earliest possible moment....[3]

From time to time throughout English and American history, the powers of government have moved to suspend the right to Habeas Corpus. On occasion, they have succeeded. One such occasion took place in May, 1794, when William Pitt the Younger, then Prime Minister, engineered suspension of Habeas Corpus over the opposition of Charles James Fox. Pitt's success in gaining suspension of the writ was due to the establishment of a "rhetoric of repression" within a political climate of repression. The role played by Pitt in this rhetoric of repression has not been scrutinized by scholars in British public address, from Goodrich to the present. The following questions will be treated in this paper: (1) What was the climate of repression in which Pitt's rhetoric of repression found favor? (2) What were the characteristics of Pitt's rhetoric of repression, especially as manifest in the debate on the Habeas Corpus Suspension Act of 1794? (3) Was Pitt's rhetoric of repression justified?

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To return to the first, "what was the climate of repression in which Pitt's rhetoric of repression found favor? The French Revolution and the war with France which had begun in 1793 were by far the most pressing problems in foreign policy. It was Pitt's war, to be sure, for it was he who had assembled the ill-fated First Coalition.[4] Throughout 1793 and in the first months of 1794, the First Coalition suffered setback after setback. Nevertheless, George III and Pitt declared their support of the war at the opening of Parliament in January, 1794.[5] Indeed, it was Pitt's war and it was not going well, either on the battlefields of the low countries or at home with the populace.

The period from the accession of George III to 1792 had been marked by an increased influence opinion upon the legislators, particularly in the area of Parliamentary reform.[6] Barnes notes that Pitt's enthusiastic support of Parliamentary reform from 1781 to 1785 cooled to an attitude of indifference from 1785 to 1792 and finally hardened to strong opposition from 1792 on.[7] Thus the once-popular advocate of Parliamentary reform found himself the butt of growing public indignation.

Various societies had been formed in the 1780's to further numerous causes. A society dedicated to the abolition of slave trade ultimately secured the passage of an Act in 1787 supported by Pitt, Fox, and Burke.[8] In the area of Parliamentary reform, a group which had strongly supported Pitt in 1785, the Society for Promoting Constitutional Information, turned against him in 1792. This group, along with the Society of the Friends of the People and Thomas Hardy's London Corresponding Society, formed Pitt's most vocal public critics.[9] Adding impetus to the popular appeal of the societies were two strident documents published early in the decade, Burke's Reflections on the French Revolution and Paine's Rights of Man.[10]

The societies and their sympathizers continued to oppose Pitt's war with France and, of course, were in adamant opposition to the Prime Minister's stand against Parliamentary reform. Thus, the climate of bitter political opposition to His Majesty's government on both foreign and domestic policy was established by the spring of 1793. The stage was set for a rhetoric of repression.

As the societies held more frequent meetings and began to distribute more biting pamphlets, the government became restive. On May 21, 1793, King George III issued a proclamation against so-called "seditious writings."[11] This vaguely-worded edict was one of the first overt attempts by the Pitt government to undertake a repressive position toward dissent. Shortly thereafter, Thomas Muir, a member of the Scottish Friends of the People, was arrested, tried, convicted, and sentenced to fourteen years transportation for giving seditious speeches.[12] Muir had advocated Parliamentary reform. The presiding judge at Muir's trial, one Lord Braxfield, belied the rigidity of the rhetoric of repression that was to come when he remarked that "the British Constitution is the best that ever was since the creation of the world and it is not possible to make it better."[13]

Rumors that Habeas Corpus would be suspended were circulated and the Constitutional Society decried the contemplation of such measures at its meeting on January 17, 1794.[14] Tensions continued to increase and finally climaxed on May 12, 1794 with the arrest of Thomas Hardy. That same day, George III dispatched Secretary Dundas to Parliament with a message castigating "seditious practices" and urging the legislators to act.[15] That same day, Pitt's rhetoric of repression emerged as he moved from covert support to overt advocacy of repressive measures, including the suspension of Habeas Corpus.

What were the characteristics of Pitt's rhetoric of repression? First, and perhaps foremost, was Pitt's argument that the societies in England would foment a rebellion just as the Jacobin societies had brought about the French Revolution. Pitt constantly associated the English groups with their French counterparts in order to create the possibility of a serious threat to the English constitution. To strengthen the comparison Pitt, in the words of the Annual Register, "inveighed against the doctrines" in the Rights of Man and charged them with all the evils which had accrued to France.[16] Thus, Pitt hoped to persuade his hearers that similar revolutionary doctrines existed in France and in England and, if they were permitted to gain strength in England, the results would be disasterous.

Second, Pitt repeatedly sought to advance a "conspiracy theory" to justify repressive measures. In doing so, Pitt reversed the presumption of innocence in Hardy's case. He presumed instead that Hardy was guilty of treason and seditious practices and went on to argue that Hardy's London Corresponding Society was in contact with other English groups and even with Jacobin groups in France, thus compounding the conspiracy.

Third, Pitt sought to justify his advocacy of repressive measures by creating a secret committee to examine confiscated documents. The existence of the committee tended to lend a certain ethos to the affair despite the fact that it was formed at Pitt's suggestion, convened under his direction and produced a report which he read to Parliament. Indeed, a secret committee created to examine so-called secret documents is, at first glance, an impressive body. Pitt had asserted that the documents captured with Hardy were "related to transactions of an extraordinary, formidable and criminal nature, and contained matter that implicated a great number of persons."[17]

Fourth, Pitt created the "threat of a threat" when he argued that the English societies were starting to arm themselves. He used no real evidence but relied instead upon the inferences of the secret committee: "It appears to your committee that in some of the societies referred to, proposals have been received, and that measures have recently been taken, for providing arms to be distributed among the members of the societies."[18]

Finally, Pitt put the full weight of his position as Prime Minister behind the repressive measures. It was Pitt who thanked the King for his message of May 12. It was Pitt who moved to create the secret committee. It was Pitt who chaired the committee. It was Pitt who delivered the committee's report. And it was Pitt who moved to suspend Habeas Corpus.[19] One might suspect that Pitt's committee found what Pitt wanted them to find, but there is little evidence to show that Pitt's colleagues questioned the report. On the contrary, several members of the house indicated that they would support the bill bacause of their faith in the committee.[20]

Whether Pitt's powers of persuasion or his control of his party gained the necessary votes can never be known for certain. It may be that the climate of repression begun a year earlier by the King's proclamation against "seditious practices" established the necessary pre-conditions of belief in which advocacy of repressive measures could find favor.

Pitt's biographers and critics have differing views on his part in the suppression of civil liberties. Stanhope contends that Pitt's measures were justified because of popular support for them and because of the ready acquiescense of the House of Commons.[21] Chatterton contends that Pitt was correct in calling for harsh measures, but he notes that the policies may have seemed questionable at the time of their passage.[22] The statements

made by Goodrich indicate an attempt to shift the burden of blame from Pitt's shoulders to one Lord Loughborough. Goodrich suggests that the followers of Burke were really to blame for the repressive policies.[23] Whibley's biography strongly supports Pitt's policies and makes clear belief that Pitt was responsible for the measures.[24] Rosebery defends Pitt by suggesting that public pressure was chiefly responsible for Pitt's decision to pursue repressive measures; he notes that "it was not the coercion of a people by a government, it was the coercion of a government by the people.[25] Erich Eyck is strongly critical of Pitt's motivations and policies; he pictures Pitt as a relentless advocate of persecution and oppression. Eyck's account is admittedly strongly prejudiced in favor of his hero, Fox, but he does raise the central issue which must be considered in order to judge Pitt. He suggests that "historical research has shown that at the very least they (conditions in England caused by the societies) must be described as highly exaggerated."[26] We must ask, "was Pitt's rhetoric of repression justified?"

Events subsequent to the suspension of Habeas Corpus seem to confirm the judgment that Pitt acted hastily and out of panic. When Hardy and the others accused of treason were brought to trial, they were acquited.[27] This exoneration of the so-called "conspirators" would suggest undue action on Pitt's part. The men may have been guilty of lesser charges, but Pitt could not make a charge of high treason stick. Pitt must be held at least partly blameworthy for his advocacy of stern measures in the fact of conditions which seem not to have called for them. Brown suggests that Pitt and his followers acted out of a genuine fear, but he further submits that they attempted "to use panic as an instrument for purposes of state."[28] Pitt's arguments concerning the use of armed force by the societies are largely dispelled by Brown, who had access to a great number of primary

sources, including the documents of correspondence between the various societies. Brown contends that the leaders of the societies "meant what they said--parliamentary reform by an agitation of public opinion."[29] Lord Macaulay strongly chastises Pitt for failure to use the available means of law enforcement and for turning to unnecessary means.[30] The standard biography of Pitt skirts the issue somewhat. On the one hand, Rose admits that Pitt's arguments calling for the suspension of Habeas Corpus were exaggerated,[31] but he also suggests that Pitt was faced with great danger and that his conduct was "far from indefensible."[32]

I am inclined to believe that Pitt acted rashly. He was confronted by a popular "climate of repression" which sought to silence the vociferous societies. Rather than judge the issue on its merits, Pitt chose to create a "rhetoric of repression" by adding to the volatile climate the erroneous inferences of the secret committee in the House of Commons which had examined no more than the relatively public records of the various societies. While it may be true that the societies became more outspoken and even outwardly violent in the years 1794-95-96, I would submit that this happened <u>because of</u> rather than <u>in spite of</u> Pitt's repressive measures. When we examine the actual conditions present in May, 1794, we do not find sufficient cause to warrant the repressive measures advocated by Pitt which were quickly forced through the House of Commons and the House of Lords. When judgment is focused on Pitt's actions of May, 1794, it seems clear that the activities of the various societies were accentuated by the suspension of Habeas Corpus. Pitt's unwillingness to allow dissent resulted in even stronger outbreaks of protest. Pitt must be held at least partially blameworthy for the unreasonable suppression of civil liberties. As Brown concludes, "Pitt and his friends do not come off without some stain on their scutcheon."[33]

Notes

[1]Maurice W. Thomas, The English Heritage (London: Thomas Nelson and Sons, 1944), p. 157.

[2]George Burton Adams, Constitutional History of England (New York: Henry Holt and Co., 1921), p. 347.

[3]Thomas, p. 160.

[4]Donald Grove Barnes, George III and William Pitt, 1783-1806 (Stanford: Stanford University Press, 1939), p. 271.

[5]The Parliamentary History of England to the Year 1803, ed. William Cobbett (London: Hansard, 1818), XXX, p. 1046. Hereafter cited as "Cobbett."

[6]Sir Thomas Erskine May, The Constitutional History of England since the Accession of George the Third 1760-1860 (London: Longans, Green and Co., 1887), II, p. 278.

[7]Barnes, p. 302.

[8]Phillip Anthony Brown, The French Revolution in English History (New York: Barnes and Noble, 1965), pp. 304.

[9]Brown, pp. 52-56.

[10]Brown, p. 53.

[11]William Hunt, The Political History of England (London: Longmans, Green and Co., 1905), X, p. 335.

[12]J. Steven Watson (ed.), The Oxford History of England (Oxford: Clarendon Press, 1960), XII, p. 359.

[13]Brown, p. 98.

[14]Brown, pp. 111-112.

[15]For the text of the message, see Cobbett, XXXI, p. 471.

[16]The Annual Register for the Year 1794 (London: G. Auld, 1799), p. 268.

[17]Cobbett, XXXI, p. 472.

[18]Cobbett, XXXI, p. 472.

[19]The Annual Register for the Year 1794, p. 269. In an unusual oversight, Cobbett does not record that Pitt proposed the bill; see Cobbett, XXXI, p. 496.

[20]Cobbett, XXXI, pp. 512-513.

[21]Earl Stanhope, Life of the Right Honorable William Pitt (London: John Murray, 1861), II, pp. 230-231.

[22]E. Keble Chatterton, England's Greatest Statesman (Indianapolis: The Bobbs-Merrill Co., 1930), pp. 256-257.

[23]Chauncey A. Goodrich, Select British Eloquence, ed. Bower Aly (New York: Bobbs-Merrill Co., 1963), p. 574.

[24]Charles Whibley, William Pitt (London: William Blackwood and Sons, 1906), pp. 214-217.

[25]Lord Rosebery, Pitt (London: Macmillan and Co., 189), p. 167.

[26]Erich Eyck, Pitt versus Fox: Father and Son, trans. Eric Northwitt (London: G. Bell and Sons, 1950), p. 318.

[27]Oxford History of England, XII, p. 360.

[28]Brown, p. 133.

[29]Brown, p. 148.

[30]Lord Macaulay, William Pitt (New York: Harper and Bros., 1878), p. 77.

[31]J. Holland Rose, William Pitt and the Great War (London: G. Bell and Sons, 1911), p. 191.

[32]Rose, p. 193.

[33]Brown, p. 133.